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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/965,187	09/25/2001	Samir S. Soliman	010107	2812
23696 7590 05/15/2007 QUALCOMM INCORPORATED 5775 MOREHOUSE DR. SAN DIEGO, CA 92121			EXAMINER RAMAKRISHNAIAH, MELUR	
			ART UNIT 2614	PAPER NUMBER
			NOTIFICATION DATE 05/15/2007	DELIVERY MODE ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

us-docketing@qualcomm.com  
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<b>Advisory Action</b> <b>Before the Filing of an Appeal Brief</b>	<b>Application No.</b> 09/965,187	<b>Applicant(s)</b> SOLIMAN, SAMIR S.	
	<b>Examiner</b> Melur Ramakrishnaiah	<b>Art Unit</b> 2614	

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 21 March 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.  
 b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

#### AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
 (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
 (b) ☐ They raise the issue of new matter (see NOTE below);  
 (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
 (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

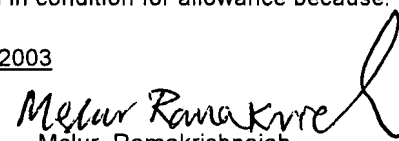
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
 5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
 6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
 7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
 The status of the claim(s) is (or will be) as follows:  
 Claim(s) allowed: \_\_\_\_\_.  
 Claim(s) objected to: \_\_\_\_\_.  
 Claim(s) rejected: \_\_\_\_\_.  
 Claim(s) withdrawn from consideration: \_\_\_\_\_.

#### AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
 9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
 10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

#### REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Continuation Sheet.  
 12. ☒ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). 8-27-2003  
 13. ☐ Other: \_\_\_\_\_.

  
 Melur Ramakrishnaiah  
 Primary Examiner  
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Continuation of 11. does NOT place the application in condition for allowance because: See the enclosed response to applicant's arguments set forth via response dated 3-21-2007.

**Response to Applicant's Arguments**

Rejection of claims 1-3, 8-11, 15-19, 23, 32, 35, 36, under 35 U.S.C 102(e) as being anticipated by Raith (WO 01/63960): quoting from the examiners response in the final rejection of applicant's claims, Applicant sets forth various arguments to dispute Raith's use of the word seamless in connection with handoff of mobile unit from one base station to another base station and contends that word seamless is not word of art to read on applicant's soft handoff and quotes dictionary meaning of the word seamless without acknowledging the context in which Raith uses the word seamless. Raith uses the word seamless to describe the handoff situation in wireless mobile communication system. He describes the following: The mobile terminal tunes to the newly assigned channel during one of the idle periods so there is no interruption in transmission. Thus, from the user's perspective, the handover can be made seamless (page 3 lines 17-20 and fig. 1). It is clear from this context that one of ordinary skill in the art at the time invention was made would reads seamless handover as soft handoff.

Applicant further contends that "The Raith reference only recites the term "seamless" in the single recitation identified above and has therefore not provided any further definition other than what plain meaning of the term "fairly teaches or suggests". Accordingly, the Raith reference's use of the adjective modifier "seamless" does not fairly teach or suggest "soft handoffs" as alleged in the Final Office Action". Regarding this, Applicant must be aware that Raith is using the word "seamless" in the context of handoff situation in wireless mobile communication system and not in some other context to attribute different meaning to the word seamless as applicant is trying to do

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disregarding the context of its use. Therefore, it is clear from this context that one of ordinary skill in the art at the time invention was made would reads seamless handover as soft handoff in light of Raith's above teaching:

Applicant further refers examiners office action which states that Raith does not explicitly teach seamless handoff as soft handoff. This is done in order to show that seamless handoff reads on soft handoff by referring to Shi reference (US PAT; 6,507,740) which states the following: in a soft or "seamless" hand off case, a mobile has two or more links with different base stations that are involved in the handoff process ... (col. 1 lines 46-53). This is being done to make the case that seamless handoff reads on soft handoff which applicant is trying to use it to distract the main thrust of the Raith's use of the word seamless in the context of handoff.

Applicant further indulges in giving his own interpretation of Raith reference use of seamless handoff and argues that Raith reference discloses simultaneous switching from one base station to another, and it is known that such simultaneous switching (not to be confused with concurrent links multiple base stations with soft handoff) from one base station to another is consistent with a "hard handoff" and not a "soft handoff" as claimed by the Applicants". Notwithstanding the applicant's interpretation of Raith reference, Raith clearly teaches: The mobile terminal tunes to the newly assigned channel during one of the idle periods so there is no interruption in transmission. Thus, from the user's perspective, the handover can be made seamless (page 3 lines 17-20 and fig. 1). It is clear from this context that one of ordinary skill in the art at the time invention was made would reads seamless handover as soft handoff.

In light of this explanation, since Raith teaches applicant's claims, rejection of claims is maintained.

Applicant's further arguments on pages 14-21 regarding the rejection of claims 1-3, 8-11, 15-19, 23, 32, 35, 36, is further rehashing of the same arguments set forth above which are addressed in the final rejection and also briefly response made above.

Applicants arguments regarding dependent claims 4-6, 12, 13, 19-22 as being obvious over Raith in view of Huang et al. (US PAT: 6,594,243, hereinafter Huang) are tied to independent claims being allowable which are not as set forth above.

Rejection of claims 7 and 14 under 35 U.S.C 103(a) as being obvious over Reith in view of Shi (US PAT: 6,507,740, filed 5-18-2005): Regarding rejection of the claims using the above combination of references, Applicant alleges that there is no motivation or suggestion to combine the references and makes arguments that smack of hindsight. In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

Applicant's further arguments on page 24 is directed to the desirability of combination in rejecting the above claims and motivation or suggestion to combine the references. Regarding this final office action clearly set forth the following: Regarding

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claim 7, Raith discloses a mobile unit comprising: a receiver in (12, fig. 1) configured to receive set of optimum system access parameters determined on a current position of the mobile unit (this is implied as the reference teaches using position of mobile communicate device to optimize handovers), a controller (not shown) configured to control mobile unit based on the received set of optimum system access-parameters (20, fig. 1, page3, line 1 – page 4, line 4; figs. 1-2).

Regarding claim 14, Reith discloses a base station comprising: a transmitter unit (12, fig. 1) configured to transmit set of optimum system-access parameters determined based on the current position of a mobile unit (20, fig. 1), and a controller 1n (12, fig. 1) configured to control the mobile unit based on the set of optimum system access parameters (page 7 lines 19-24; page 3 lines 3-20; page 8, lines 2-4, lines 14-15; page 9 lines 1-21).

Raith differs from claims 7 and 14 in that although he teaches that handover can be made seamless (which reads on effecting soft handoff: page 3 lines 19-20), he does not explicitly describe this as soft handoff.

However, Shi discloses adaptive threshold of handoff in mobile telecommunication systems which teaches the following: In a soft or “seamless” handoff case, the mobile has two or more links with different base stations that are involved in handoff process (fig. 1, col. 1 lines 46-53).

Thus, it would have been obvious to one of ordinary skill in the art at the time invention was made to recognize seamless handoff as equivalent process to soft

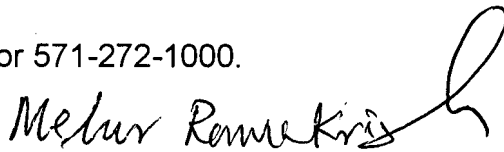
handoff as explained by Shi so that user of the mobile communication system does not experience any break in communications.

In light of this explanation rejection of claims 7 and 14 is maintained.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melur Ramakrishnaiah whose telephone number is (571)272-8098. The examiner can normally be reached on 9 Hr schedule.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Curt Kuntz can be reached on (571) 272-7499. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Melur Ramakrishnaiah  
Primary Examiner  
Art Unit 2614